



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 13, 1995

Ms. Tamara Armstrong
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767

OR95-608

Dear Ms. Armstrong:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33731.

Travis County (the "county") received the following request for records:

All jail records including but not limited to medical, educational, and disciplinary records from February 1, 1994 to the present for Cathy Henderson, date of birth, December 27, 1956.

You indicate that responsive records have previously been provided to the requestor, who is the attorney for Ms. Henderson, during the discovery process connected with Ms. Henderson's criminal trial. You apparently also have released most of the responsive documents to this requestor pursuant to her open records request. However, you assert that some of the records at issue are excepted from disclosure pursuant to section 552.103(a), because they also relate to pending civil litigation.

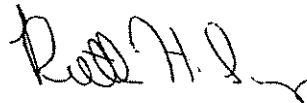
To show the applicability of section 552.103(a), a governmental entity must show that (1) litigation is pending or reasonably anticipated and that (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. You indicate that the county is a defendant in a pending civil suit filed by Ms. Henderson's former attorney. One of the issues in the civil suit concerns "whether the

Sheriff's Department had a proper warrant" to take certain actions. You have submitted the documents at issue to this office for review. Our review indicates that the documents are related to the subject of the pending civil litigation. Since you have shown the applicability of section 552.103(a) to the submitted documents, they may be withheld from disclosure.

We note that the applicability of section 552.103(a) generally ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982) at 3. Also, since the section 552.103(a) exception is discretionary with the governmental entity asserting the exception, it is within the county's discretion to release this information to the requestor. Gov't Code § 552.007; Open Records Decision No. 542 (1990) at 4.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/rho

Ref.: ID# 33731

Enclosures: Submitted documents

cc: Ms. Brenda Rhea
Attorney at Law
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Round Rock, Texas 78664
(w/o enclosures)